

ATTACHMENT 3

From: Robert E. Lee
To: Vidaver, Mary M. Bathory
Date: 4/12/2007 12:06 PM
Subject: Draft Item

CC: Brewer, Alan; Goodfriend, David; Sandy, John
Mary,

The following comments are offered from the Health Department.

Background - We are unable to support the sentence starting in the seventh line. Taking into account....

The data we have is that from 11/1/2003 to 4/1/2007, 79 conventional systems failed and 18 alternative systems failed. I can identify 14161 systems in the county of which we estimated 1565 are alternative.

Why they Fail - we suggest that the fourth word in the last sentence of paragraph one be changed from "particulate" to "media" and insert after "filters" the following ", aerobic treatment units"

In the second paragraph, please be advised that we can not support the statement on suitability for northern Virginia. The particular technology referenced in the past by others was developed in Wisconsin and extensively used across the northern plains.

ISSUES:

Financial Impact: We recommend line 4 "soil does not need to perc" be replaced with "soil and site conditions are not as stringent"

Environmental Impact:

line 5 change "Health Department" to "DEQ"

PROPOSED ORDINANCE - DRAFT

Sec. 1061.02 DEFINITIONS

In this session of the Virginia General Assembly the definitions for Alternative and Conventional onsite sewage system were all adopted and added to the definition of alternative discharging system. The definitions that were referenced in § § 15.2-2157 were deleted. It is suggested that the new definitions are used. They are as follows:

as defined in § 32.1-163

"Alternative discharging sewage system" means any device or system which results in a point source discharge of treated sewage for which the Board may issue a permit authorizing construction and operation when such system is regulated by the State Water Control Board pursuant to a general Virginia Pollutant Discharge Elimination System permit issued for an individual single family dwelling with flows less than or equal to 1,000 gallons per day.

"Alternative onsite sewage system" or "alternative onsite system" means a treatment works that is not a conventional onsite sewage system and does not result in a point source discharge.

"Conventional onsite sewage system" means a treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield.

as defined in § 54.1-2300

"Onsite sewage system" means a conventional onsite sewage system or alternative onsite sewage system as defined in § 32.1-163.

Sec. 1061.04 EXEMPTIONS

There should be some clarity with the use of the term certification letter in this section. A certification is issued on an individual lot in accordance with state regulations. However, there is a subdivision letter which is required prior to record plat which indicates that the lots can be developed. It also identifies which are conventional and which are alternative, many times including specific technology. After the subdivision letter is prepared the lot does not have to be reevaluated

again unless the owner requests a change to the location of the approved drainfield. If the time limit is applicable to this situation it will need to be made clear in the code.

1061.04 (b) change the word "variance" on line 1 to "exemption"

General comment - If alternative systems are exempt from ban (or existing) why not require them to have professional maintenance for the life of the system so that problems are discovered timely and repaired rather than allowing them to end up a complete failure?

FYI - Paul Brown will have a map available at the Public Safety Meeting which shows where all the alternative systems we have specifically identified are located. You may want to use it.

If there are any questions, please let me know. I will be in training tomorrow (Friday) all day.

Bob Lee

ATTACHMENT 4

CHAPTER 1061
Regulation of Non-Conventional Sewage Systems

1061.01	Intent	1061.05	Penalties
1061.02	Definitions	1061.06	Conflicts With Other Sections
1061.03	Regulation	1061.07	Severability
1061.04	Exemptions		

CROSS REFERENCES

General Health Authority see Code of Va. § 15.2-1200

Authority to Regulate Septic Systems see Code of Va. § 15.2-2157

Public Health Concerns see 12 VAC 5-640-380

Sec. 1061.01. INTENT.

The intent of this ordinance is to protect water quality and water supplies; prevent the contraction or spread of infectious, contagious and dangerous diseases; prevent the spread of failing septic systems that have put inordinate administrative burdens on the services provided by County Departments of Health and Public Works due to their high failure rate; and otherwise further the health, safety, morals and general welfare of the citizens of Loudoun County. Pursuant to these goals, the Board of Supervisors hereby exercises its power, as granted by § 15.2-2157 VA Code Ann., to regulate onsite sewage systems.

(Statutory References: §§ 15.2-2157; 15.2-1200 VA Code Ann.)

Sec. 1061.02 DEFINITIONS.

The following terms are hereby defined for the purposes of this chapter:

“Non-conventional onsite sewage system” or “non-conventional onsite system” means a sewage treatment works or facility that is not a conventional onsite sewage system.

“Conventional onsite sewage system” means a treatment works or facility consisting of one or more septic tanks with gravity conveyance to a gravity-distributed subsurface drain field, intended to serve one or more uses on a single parcel, and not maintained by a service authority, sanitary district, or other public entity.

“Health Department” means the Loudoun County Health Department.

(Statutory References: §§ 15.2-2157; 32.1-163 VA Code Ann.; 12 VAC 5-610-970 & -980)

Sec. 1061.03 REGULATION.

The approval and permitting of non-conventional onsite sewage systems is prohibited in Loudoun County except as permitted in this chapter.

(Statutory References: §§ 15.2-2157; 15.2-1200 VA Code Ann.)

Sec. 1061.04 EXEMPTIONS.

(a) This prohibition shall not affect:

- (1) Any existing and permitted non-conventional onsite sewage system which is maintained pursuant to county or Health Department regulations;
- (2) Any proposed non-conventional onsite sewage system which has received a certification letter from the Health Department prior to the effective date of this ordinance but has not been installed. This exemption will not apply if the referenced system has not been installed within three (3) years after the issuance of the certification letter;
- (3) The ability of any property owner, whose existing sewage and disposal system fails and who cannot replace the failed system with a sewage treatment and disposal system other than a non-conventional onsite sewage system, or who has only a privy serving the property, to replace the failed system or privy with a non-conventional onsite sewage system with the approval of the Health Department;
- (4) A habitable building that has been destroyed by circumstances beyond the control of the owner or occupant of the building within one (1) year of the application for a non-conventional onsite sewage system, provided that said system must be installed within three (3) years from the date of issuance of the certification letter;
- (5) A buildings which is eligible to be on the Virginia Landmarks Register or the National Register of Historic Places or is eligible to be a contributing landmark in an historic district listed in the Virginia Landmarks Register or the National Register of Historic Places, so as to ensure that historic landmarks are not destroyed or rendered unusable by lack of sewage disposal. The property owner shall obtain certification from the Health Department to use a non-conventional onsite sewage system; or
- (6) A public building or facility.

(b) Any non-conventional onsite sewage system constructed by variance under this section shall comply with all relevant regulations promulgated by the Virginia Department of Health and the Health Department, including but not limited to Chapters 1060 and 1066 of this Code.

(Statutory References: §§ 15.2-2307 and 32.1-163 *et seq.* VA Code Ann.; Chapters 1060 and 1066, Loudoun County Code; 12 VAC 5-610-970 & -980)

Sec. 1061.05 PENALTIES

Before a citation for violation of this chapter may be prosecuted and a fine imposed, a

written notice shall be given to the owner that the owner has 30 days in which to abate the violation. Thereafter, violation of this chapter shall be punishable by a civil fine of \$100 for the initial citation and \$150 for each subsequent citation. Each day during which the violation is found to have existed shall constitute a separate offense. Notwithstanding this, not more than one citation arising from the same underlying nucleus of operative facts may be issued during any 10-day period, nor may civil penalties exceed a total of \$3,000. If the violation is not abated after the imposition of the maximum fine, the Health Department may seek injunctive or other civil relief for the enforcement of this chapter.

(Statutory References: § 15.2-2157 VA Code Ann.)

Sec. 1061.06 CONFLICTS WITH OTHER SECTIONS.

Nothing herein shall be construed to affect the application and enforcement of any other section of the Loudoun County Code.

Sec. 1061.07 SEVERABILITY.

If any section, sentence, paragraph, term, or provision of this ordinance is determined to be illegal, invalid, or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term, or provision of this ordinance, all of which shall remain in full force and effect.

Sec. 1061.07 EFFECTIVE DATE.

The effective date of this ordinance shall be immediately.